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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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Magnuson-Stevens Act Provisions; National Standard 2 - Scientific Information; Regional Peer Review Processes

AGENCY: National Marine Fisheries Service (NMFS); National Oceanic and Atmospheric Administration (NOAA); Commerce.

ACTION: Notice of regional peer review processes.

SUMMARY: NMFS is providing notice of the regional peer review processes established pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This notice provides a summary of each regional peer review process which has been jointly established by the Secretary and the relevant regional fishery management council (Council) for review of scientific information used to advise the Council about the conservation and management of fisheries. It also directs the public to a webpage where detailed guidelines can be found for each peer review process. NMFS and the Councils may update those guidelines as necessary.

DATES: Effective *[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

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SUPPLEMENTARY INFORMATION: Section 301(a)(2) of the MSA specifies that fishery conservation and management measures shall be based upon the best scientific information available. 16 U.S.C. 1851(a)(2). Section 302(g)(1)(E) of the MSA provides that the Secretary

and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. 16 U.S.C. 1852(g)(1)(E). Section 301(b) of the MSA states that the Secretary [of Commerce] shall establish advisory guidelines (which shall not have the force and effect of law), based on national standards, to assist in the development of fishery management plans. 16 U.S.C. 1851(b). These national standards include National Standard 2 (NS2), which provides guidance on the best scientific information available (BSIA) standard, including guidance on standards for establishing a peer review process per MSA section 302(g)(1)(E). The NS2 guidelines appear at 50 CFR 600.315.

The decision to establish a 302(g)(1)(E) peer review process is a joint decision made by the Secretary and a Council. If the Secretary and a Council establish such a process, it will be deemed to satisfy the requirements of the Information Quality Act (44 U.S.C. 3516), including the Office of Management and Budget (OMB) Final Information Quality Bulletin for Peer Review (70 FR 2664, January 14, 2005). 16 U.S.C. 1852(g)(1)(E). Under the NS2 guidelines, the Secretary will announce the establishment of a peer review process under MSA 302(g)(1)(E), which may include existing committees or panels, in the **Federal Register**. See 50 CFR 600.315(b)(4). This notice fulfills that requirement and is an affirmation that the existing regional peer review processes jointly commissioned by the Secretary and Council are consistent with widely accepted peer review standards and the NS2 guidelines, including requirements for public transparency.

The NS2 guidelines provide guidance and standards to establish a 302(g)(1)(E) review process and adopts many of the OMB Peer Review Bulletin standards. See 50 CFR 600.315(b). These standards emphasize the importance of expert qualifications; balance in

knowledge and perspectives; lack of conflicts of interest; independence from the work being reviewed; and transparency of the peer review process. The NS2 guidelines specify that the degree of independence for a peer review may vary depending of the novelty, controversy, and complexity of the scientific information being reviewed. For reviews requiring a high degree of independence, the Center for Independent Experts (CIE) has often been used as an independent selection process for obtaining highly qualified experts to participate on review panels. Further information on CIE and NS2 is available at: <https://www.st.nmfs.noaa.gov/science-quality-assurance/index>. The NS2 guidelines also provide guidance on participation in the peer review process by members of the Council's Scientific and Statistical Committee (SSC). This notice provides links to publicly available webpages that set forth detailed guidelines for each 302(g)(1)(E) peer review process. The guidelines may be updated as necessary and appropriate to improve the review processes. Although not within the scope of this notice, there are other important processes, including peer review, that are used by NMFS to inform fishery conservation and management that are not jointly established by the Secretary and Council pursuant to section 302(g)(1)(E), such as peer reviews pertaining to scientific information supporting international fisheries management agreements.

Description of Regional Peer Review Processes. Five regional peer review processes have been established jointly by the Secretary and Councils pursuant to MSA section 302(g)(1)(E); an overview of each is provided below.

(1) Stock Assessment Workshop/Stock Assessment Review Committee (SAW/SARC).

(i) Scope and objective. The Stock Assessment Workshop/Stock Assessment Review Committee (SAW/SARC) process has been jointly established by the NMFS Northeast Fisheries Science Center (NEFSC), NMFS Greater Atlantic Regional Fisheries Office (GARFO), New

England Fishery Management Council (NEFMC), Mid-Atlantic Fishery Management Council (MAFMC), and Atlantic States Marine Fisheries Commission (ASMFC) to conduct the peer review of scientific stock assessment information used for fishery management in the Northeast and Mid-Atlantic regions.

(ii) Background. The Stock Assessment Workshop (SAW) is a formal scientific peer-review process for evaluating and presenting stock assessment results to managers in the Northeast and Mid-Atlantic regions. The SAW protocol is used to prepare and review assessments for fish and invertebrate stocks in the offshore U.S. waters of the northwest Atlantic Ocean. Assessments are prepared by SAW working groups (federally led assessments) or ASMFC technical assessment committees (state led assessments) and peer reviewed by an independent panel of stock assessment experts called the Stock Assessment Review Committee (SARC) to determine the adequacy of benchmark stock assessments for providing a scientific basis for fisheries management. SARC panels are typically composed of a chair, who is selected from the New England or Mid-Atlantic Council's SSC, and experts selected by the CIE. Published SAW assessment reports reflect the written decisions and conclusions of the SARC panel regarding each of the assessment Terms of Reference (ToR). The SAW/SARC process is overseen by the Northeast Region Coordinating Council (NRCC). The NRCC includes high level representatives from the NEFSC, GARFO, MAFMC, NEFMC, and ASMFC. The NEFSC Science and Research Director and the NRCC are directly involved with assessment scheduling. Peer reviewed assessment results and reports from the SARC review panel are provided to the relevant Council's Technical Teams, and the SSC for use in making fishing level recommendations to the Councils.

(iii) Terms of reference. Peer reviewer selection takes into consideration qualifications of experts, balance of perspective, conflict of interest, and independence. ToRs for stock assessments are developed by the NEFSC in consultation with NRCC members, and with final approval by the NRCC. Benchmark stock assessments undergo a higher degree of peer review than stock assessment updates and operational stock assessments. In benchmark assessments, it is acceptable to incorporate new data sources and assessment models and assumptions. Assessment updates and operational stock assessments are more limited in this respect. They generally incorporate additional years of data into the previously accepted benchmark assessment model, with few modifications to the model or model assumptions.

(iv) Compliance with National Standard 2. The SAW/SARC process for conducting peer review of scientific information for fishery management is fully compliant with the NS2 guidelines.

(v) Transparency. SAW working group meetings, as well as the SARC peer review meetings, are open to the public. Dates and locations of these meetings are posted on a public NEFSC webpage well in advance, and peer review meetings are also announced in the Federal Register, and at public Council meetings. SAW working papers are made available on a public NEFSC webpage before, during, and after the peer review. Names of reviewers are posted online and paper copies of reports are available during peer reviews. A public comment period is scheduled on the SARC review meeting agenda. When the peer review is completed, published proceedings and reviewer reports are posted on public NEFSC webpages (<http://www.nefsc.noaa.gov/publications/> and <http://www.nefsc.noaa.gov/saw/>) and public presentations are given to the Councils. A detailed description of the SAW/SARC peer review process is available to the public at: <http://www.nefsc.noaa.gov/saw/>.

(2) Southeast Data, Assessment and Review (SEDAR).

(i) Scope and objective. The Southeast Data, Assessment and Review (SEDAR) process has been jointly established by the NMFS Southeast Fisheries Science Center (SEFSC), NMFS Southeast Regional Office (SERO), Southeast Atlantic Fishery Management Council (SAFMC), Gulf of Mexico Fishery Management Council (GMFMC), and Caribbean Fishery Management Council (CFMC) to conduct the peer review of scientific information used for fishery management in the U.S. Southeast Atlantic, Gulf of Mexico, and Caribbean regions.

(ii) Background. The SEDAR is overseen by the SEDAR Steering Committee, comprised of executive directors and chairs of the GMFMC, CFMC and SAFMC; executive directors of the Atlantic and Gulf States Marine Fisheries Commissions; the SERO Administrator; and chaired by the director of the SEFSC. SEDAR seeks improvements in the quantity and scientific quality of stock assessments to address existing and emerging fishery management issues. SEDAR emphasizes transparency in the assessment review process, and a rigorous and independent scientific review of completed stock assessments. A SEDAR review is organized as three workshops: (1) a data workshop where datasets are documented, analyzed, and reviewed and data for conducting assessment analyses are compiled; (2) an assessment workshop where quantitative population analyses are developed and refined and population parameters are estimated; and (3) a review workshop where a panel of independent experts reviews the data and assessment and advises on whether the assessment is of sufficient quality for use in fisheries management.

(iii) Terms of reference. The terms of reference for conducting a peer review within the SEDAR process are established before the peer review by the SEFSC with the SAFMC, GMFMC, or CFMC and their SSCs.

(iv) Compliance with National Standard 2. The SEDAR process for conducting peer review of scientific information for fishery management is fully compliant with the NS2 guidelines.

(v) Transparency. All SEDAR workshops are open to the public. Public testimony is accepted in accordance with the Council Statement of Organization Practices and Procedures (SOPP). Workshop times and locations are announced in advance through the Federal Register. All SEDAR reports are posted on the SEDAR website and are hyperlinked to the respective Council(s) and the NMFS SERO and SEFSC websites. The SEDAR webpage is at <http://www.sefsc.noaa.gov/sedar/>. A detailed description of the SEDAR peer review process is publicly available at:

http://www.sefsc.noaa.gov/sedar/download/D2c_RW%20panelist%20instructions.pdf?id=DOCUMENT.

(3) Stock Assessment Review (STAR).

(i) Scope and objective. The Stock Assessment Review (STAR) process has been jointly established by the Pacific Fishery Management Council (PFMC), NMFS Southwest Fisheries Science Center (SWFSC), NMFS Northwest Fisheries Science Center (NWFSC), and NMFS West Coast Region (WCR) to conduct the peer review of scientific information used for fishery management of Coastal Pelagic Species and Pacific Coast Groundfish in the Pacific region.

(ii) Background. The STAR peer review process is primarily overseen by the PFMC's SSC and conducted in collaboration with the NWFSC and SWFSC. It is a transparent, rigorous and independent scientific peer review process designed to evaluate the technical merits of benchmark stock assessments and related scientific information. The STAR process allows the Council to make timely use of new fishery and survey data, ensure the stock assessments

represent the best information for fishery management decisions and provide opportunity for public comment. STAR Panels are held early in the management process to ensure their recommendations are readily available for fishery management decision-making. The relevant SSC subcommittees typically review updated and data-moderate assessments, although STAR panels may be used as needed.

(iii) Terms of reference. The ToR for the Groundfish and Coastal Pelagic Species Stock Assessment and Stock Assessment Review Process is updated by the PFMC in partnership with NMFS. The ToR describes the STAR process and includes an overview of the stock assessment prioritization process, STAR Panel goals and objectives, roles and responsibilities of STAR participants, as well as a calendar of events with a list of deliverables for final approval by the Council. The ToR is publicly available on the PFMC's website.

(iv) Compliance with National Standard 2. The STAR process for conducting peer review of scientific information for fishery management is fully compliant with the NS2 guidelines.

(v) Transparency. STAR panel review meetings are open to the public and background materials are publicly available. Public testimony is accepted in accordance with the PFMC's Statement of Organization Practices and Procedures (SOPP). STAR Panel meeting times and locations are announced in advance through the Federal Register. STAR panel review reports are posted on the Council's website. More detailed information about the STAR process can be found on the Council's website at: <http://www.pcouncil.org> and its ToRs can be found at http://www.pcouncil.org/wp-content/uploads/Stock_Assessment_ToR_2013-14_Final.pdf.

(4) North Pacific Stock Assessment Review.

(i). Scope and objective. The North Pacific Stock Assessment Review (NPSAR) process has been jointly established by the NMFS Alaska Fisheries Science Center (AFSC), NMFS Alaska Regional Fisheries Office (AKRO), and North Pacific Fishery Management Council (NPFMC) to conduct the peer review of scientific information used for fishery management in the North Pacific region. The NPFMC's SSC reviews are the main scientific analyses that come before the Council for action, including stock assessment and fishery evaluation (SAFE) documents. The NPFMC's SSC has a set of guidelines that it uses specifically when reviewing SAFE documents.

(ii). Background. The AFSC is responsible for stock assessments for about 25 species or species groups listed in the groundfish fishery management plan (FMP) for the Gulf of Alaska (GOA) and approximately 25 species or species groups in the Bering Sea/Aleutian Islands FMP. The State of Alaska Department of Fish and Game (ADFG) has responsibility for one groundfish stock assessment in the GOA FMP and all assessment responsibility for Scallops. The AFSC and ADFG share assessment responsibilities for the 10 species in the Bering Sea crab FMP. Scientific recommendations for these living marine resources are provided by the NPFMC with various management authorities delegated to the State of Alaska for crab and scallop fisheries. The SAFE report is compiled by the Plan Teams (which are scientific review bodies specific to each FMP) with contributions that include individual stock assessment, economic, and ecosystem chapters from AFSC and ADFG. The SAFE is disseminated by the NPFMC and describes the condition and current status of these resources in addition to information that summarizes the ecosystem and economic status. The stock assessment, economic, and ecosystem chapters are subject to internal review before dissemination to the FMP Plan Teams

and the Council's SSC. The information is provided to the NPFMC and ADFG to be used as the basis of their management decisions, which are subsequently approved by NMFS.

The stock assessment process begins with an annual memo from the AFSC stock assessment supervisors to staff outlining the dates for completion of the stock assessment chapters for internal review and the list of internal reviewers for each assessment. Stock assessments authored by ADFG follow a similar process. After review and revision, the draft stock assessment chapters are released for pre-dissemination review by the NPFMC Plan Team. The Plan Teams review stock assessments and associated ecosystem and economic appendices, compile the SAFE reports and make recommendations to the SSC. The SSC reviews the SAFEs and the Plan Team recommendations and sets the fishing level recommendations for each stock. The members of the NPFMC SSC represent broad areas of scientific expertise to encompass the full range of expertise required to review analyses that come to the Council to aid in decision-making. SSC members are nominated by individuals or agencies and are appointed and re-appointed annually by the NPFMC. Review assignments are made by the SSC chair to ensure that members are not assigned to review work products of individuals in their chain of command. In addition to the normal schedule of assessment updates and reviews, a separate review schedule involving the CIE is maintained, with the goal of obtaining a CIE review of all stock assessments once every five years.

(iii) Terms of reference. The ToRs for conducting a peer review within the NPSAR process is established before the peer review by the AFSC in conjunction with the NPFMC.

(iv) Compliance with National Standard 2. The NPSAR process for conducting peer review of scientific information for fishery management is fully compliant with the NS2 guidelines.

(v) Transparency. SAFE documents are made available to the Plan Team two weeks prior to the Plan Team meeting in which they are to be reviewed. The public is also given public access to these documents and are allowed to attend Plan Team and SSC meetings. Notification of Plan Team meetings is provided in the *Federal Register*. Similarly, all documents reviewed by the SSC are made available to the public. This includes SAFE documents and Plan Team reports provided to the SSC in advance of the meeting in which the SSC makes ABC/OFL recommendations. The SSC publicly presents the findings of its report to the NPFMC at its meeting. When the SSC is making ABC/OFL recommendations for groundfish, the SSC report also characterizes the nature of any public testimony provided to the SSC at its meeting. The final SAFE is also published on the NPFMC webpage. More detailed information for the North Pacific Stock Assessment Review process is publicly available at: <http://www.npfmc.org/wp-content/PDFdocuments/resources/SAFE/AFSCsafeReviewProcess.pdf>.

(5) Western Pacific Stock Assessment Review (WPSAR).

(i) Scope and objective. The Western Pacific Stock Assessment Review (WPSAR) process has been jointly established by the NMFS Pacific Islands Fisheries Science Center (PIFSC), NMFS Pacific Islands Regional Fisheries Office (PIRO), and Western Pacific Fishery Management Council (WPFMC) to conduct the peer review of scientific information used for fishery management in the Pacific Islands Region.

(ii) Background. The WPSAR process was established to improve the quality and reliability of stock assessments for fishery resources in the Pacific Islands region. The process provides for rigorous and independent scientific review of stock assessments, and encourages constituent/stakeholder participation in stock assessment reviews. A five-year planning horizon is adopted to facilitate the timely execution of critical data collection activities, population

dynamics model development, and stock evaluation exercises. The WPFMC, PIFSC and PIRO share the fiscal and logistical responsibilities of the WPSAR process. The WPFMC sponsors the review process, and PIFSC, PIRO and WPFMC staff coordinate and facilitate the review process in the Coordinating Committee. Specifically, the Coordinating Committee consults with the WPSAR Steering Committee, which is comprised of WPFMC, PIFSC, PIRO leadership, to develop the WPSAR schedule, prepare terms of reference, convene the review panels, and any other duties deemed pertinent by the Steering Committee. The WPSAR process adopts a three tier approach for the review and acceptance of stock assessment research products. The tiers differ in form, timing, scope, and panel membership, commensurate with the novelty and complexity of the information under review. Under Tier 1, CIE reviewers conduct independent peer reviews of new stock assessment methodologies and, in special circumstances, international stock assessments in accordance with the specified terms of reference. The application of new methodologies and benchmark assessments fall under Tier 2 which utilizes panel independent subject matter experts. Tier 3 is used for assessment updates, where only new data are added to an existing and approved assessment.

The Coordinating Committee, in consultation with the WPSAR Steering Committee, identifies and selects expert panel members. The selected panel reviews the products in accordance with the associated terms of reference. A standing member of the Council's SSC will chair each WPSAR Tier 2 Review Panel and provide a summary report. Each individual reviewer produces and provides a report regarding their unique findings.

(iii) Terms of reference. The terms of reference are developed before each review, and identify the specific assessment parameters to be address during that review.

(iv) Compliance with National Standard 2. The WPSAR process for conducting peer review of scientific information for fishery management is fully compliant with the NS2 guidelines.

Tier 1 reviews will be conducted by the CIE, in accordance with CIE protocols (<http://ciereviews.org/>). For Tier 2 reviews, the panel will consist of three to five experts, the exact size determined by the WPSAR Coordinators and approved by the Steering Committee. The Tier 2 Review's Chair will be a standing member of the Council's SSC, and appointed by the Steering Committee. In addition, all reviewers must meet qualifications required for the peer review. The independent reviewers can come from the CIE, academia, or be nominated by the public. Reviewers will be selected in accordance with NS2 peer reviewer selection guidelines (50 CFR 600.315(b)(2) and (c)(2)), and in accordance NOAA's Conflict of Interest Policy. Like a Tier 2 panel, Tier 3 panels will consist of three to five experts, the exact size determined by the WPSAR Coordinators and approved by the Steering Committee. Under Tier 3 only, the Steering Committee may unanimously agree to a WPRFMC SSC/PIFSC-only review.

(v) Transparency. All meetings are open to the public, and will be announced in the Federal Register with a minimum of 14 days before a review. More detailed information for the WPSAR process is publicly available at

http://www.pifsc.noaa.gov/peer_reviews/wpsar/index.php.

Other peer review processes. In addition to the peer review processes described above, NMFS uses other important peer review processes to ensure the use of the BSIA for fishery management decisions. While these processes provide critical peer review of scientific information, NMFS is not identifying them as jointly established peer review processes for purposes of MSA section 302(g)(1)(E). Many of these other peer review processes are used in

connection with transboundary and/or internationally-managed species under legal authorities other than the MSA. Examples include Atlantic tuna and tuna-like species managed pursuant to the International Convention for the Conservation of Atlantic Tuna; tropical Pacific tuna managed by the Inter-American Tropical Tuna Commission; Atlantic and Pacific salmon and Pacific hake/whiting, all managed in conjunction with Canada. Lack of inclusion on the list of MSA § 302(g)(1)(E) peer review processes does not in any way diminish the integrity of those peer review processes or NMFS' confidence in and reliance on them for review of scientific information.

Dated: August 10, 2016.

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National Marine Fisheries Service.

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